

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/CS/HB 439 — Department of Legal Affairs

by Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Rep. Eisnagle and others (CS/SB 1362 by Appropriations Committee and Senator Simmons)

The Department of Legal Affairs (department), led by the Attorney General, provides a wide variety of legal services, including protecting Florida consumers in cases of Medicaid and other fraud, defending the state in civil litigation cases, and representing the people of Florida when criminals appeal their convictions in state and federal courts.

This bill makes several changes to a variety of statutes affecting the department. For example, the bill:

- Expands the jurisdiction of the Office of Statewide Prosecution to include violations of ch. 787, F.S. (kidnapping, false imprisonment, and human trafficking), that were facilitated by or connected to the use of the Internet;
- Authorizes the department to spend no more than \$20,000 annually to support costs associated with the agency's Law Enforcement Officer of the Year and Victims Services recognition and awards program.
- Allows funds currently awarded to persons who report Medicaid fraud to also be used to fund the Department's Medicaid Fraud Control Unit;
- Expands the definition of the term "crime" for purposes of victim assistance awards;
- Expands the definition of the term "disabled adult" to include a person who has a mental illness or has one or more physical limitations;
- Prohibits victim assistance awards for "catastrophic injury" from being reduced;
- Authorizes the department to award a lifetime maximum of \$1,000 on all victim assistance claims relating to elderly persons and disabled adults who suffer a property loss that causes a substantial diminution in their quality of life; and
- Creates s. 960.196, F.S., that addresses relocation assistance for victims of human trafficking.

The bill also creates part VII of ch. 501, F.S., entitled the "Patent Troll Prevention Act." The bill prohibits a person from making a bad faith assertion of patent infringement. It allows a defendant in a patent infringement proceeding to move that the proceeding involves a bad faith assertion of patent infringement and request that the court issue a protective order. If, based on factors set out in the bill, the court finds that the defendant has established a reasonable likelihood that the plaintiff has made a bad faith assertion of patent infringement, the court must require the plaintiff to post a bond in an amount equal to the lesser of \$250,000 or a good faith estimate of the target's expense of litigation, including an estimate of reasonable attorney fees, conditioned on payment of any amount finally determined to be due to the target. A court may waive the bond requirement for good cause shown or if it finds the plaintiff has available assets equal to the amount of the proposed bond.

A person against whom a bad faith assertion of patent infringement is made also may bring an action in a court of competent jurisdiction for relief. If successful, the court may award a plaintiff equitable relief; damages; costs and fees, including reasonable attorney fees; and punitive damages in an amount equal to \$50,000 or three times the total damages, costs, and fees, whichever is greater.

A violation of the prohibition against making a bad-faith assertion of patent infringement also constitutes an unfair or deceptive trade practice and the department may bring an enforcement action for an injunction and to recover actual damages. An institution of higher education, a technology transfer organization owned by or affiliated with an institution of higher education, or a demand letter or assertion of patent infringement that includes a claim for relief relating to patents for pharmaceutical or biological products are exempt from the bill's provisions.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 40-0; House 115-0